

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6164**

**BILL NUMBER: SB 52**

**NOTE PREPARED:** Dec 5, 2013

**BILL AMENDED:**

**SUBJECT:** Criminal Penalties and DNR.

**FIRST AUTHOR:** Sen. Steele

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill makes the penalty for violating certain statutes in IC 14 (natural and cultural resources) an infraction instead of a misdemeanor.

(The introduced version of this bill was prepared by the Criminal Law and Sentencing Policy Study Committee.)

**Effective Date:** July 1, 2014.

**Explanation of State Expenditures:** This bill would create new Level 6 felonies for violating oil and gas permit laws and laws regarding the operation of wells. A Level 6 felony can be punishable by a prison sentence that ranges from 6 to 30 months.

The average expenditure to house an adult offender was \$19,386 in FY 2013. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily, per prisoner.

**Explanation of State Revenues:** This bill proposes changing six sections of Indiana Code that are currently Class A misdemeanors to Class A infractions, three sections of code that are currently Class B misdemeanors to Class B infractions, and four sections of Indiana Code that are currently Class C misdemeanors to Class C infractions. LSA estimates that this could affect between 10% and 13% of the cases filed in CY 2012 and the first ten months of CY 2013.

One new provision makes it a Class C misdemeanor to (1) fish, hunt, trap, or chase; (2) shoot with any kind

of firearm or archery equipment; (3) search for or gather any plant life (defined as the members of the kingdoms fungi and plantae); or (4) search for or gather any artifacts in burial grounds upon privately owned land without having the consent of the owner or tenant of the land.

Revenue from court fees, penalties and judgments will be affected by this bill. First, if a person is found guilty or pleads guilty of violating one of the sections of the natural resources statutes, the person will pay a court cost fee of \$120 if the case is a misdemeanor and \$70 if the case is an infraction. These court cost fees are deposited into the state General Fund. More infractions and fewer misdemeanors will mean a \$50 loss to the state General Fund for each case where the person is found guilty of an infraction rather than a misdemeanor.

The person may also be liable for either a criminal fine if the violation is a misdemeanor or a judgment if the violation is an infraction. Fines from misdemeanors are deposited in the Common School Fund. Infraction judgments are deposited in the state General Fund. More infractions and fewer misdemeanors will mean a loss to the Common School Fund and a gain to the state General Fund for each case where the person is found guilty of an infraction rather than a misdemeanor.

As proposed, the Class A and C misdemeanors that are changed to Class A and C infractions will have the following maximum judgments set by this bill that will be lower than the maximum judgements set by current law. The current maximum penalty for a Class B misdemeanor is \$1,000, the same as the maximum judgment for a Class B infraction.

	<b>Maximum Judgment under Current Law</b>	<b>Maximum Judgment as Proposed in Bill</b>
<b>Class A misdemeanors that are changed to Class A infractions</b>	\$10,000	\$5,000
<b>Class B misdemeanors that are changed to Class B infractions</b>	\$1,000*	Not specified
<b>Class C misdemeanors that are changed to Class C infractions</b>	\$500	\$250
* Note: Maximum fine for a Class B misdemeanor is \$1,000, and the maximum judgment for a Class B infraction is \$1,000.		

To estimate the potential fiscal effect of this bill, LSA examined 6,206 offenses that were filed in 76 trial courts and 15 city and town courts in both CY 2012 and 2013 that were violations of IC 14.

Of these, almost 13% (427 offenses of 3,233) of the total cases filed in 2012 would be changed from misdemeanors to infractions, and 10% (304 cases of the 2,883 cases) filed in the first ten months of 2013 would be affected.

<b>Criminal and Infraction Cases Filed under IC 14 (Natural Resource Laws)</b>			
<b>Offense</b>	<b>CY 2012</b>	<b>CY 2013</b>	<b>Revenue Effect</b>
Misdemeanor -- Knowingly or Intentionally		4	Minimal Change
Misdemeanor Changed to Infraction	427	304	Loss to Common School Fund Increase to State General Fund
No Change from Infraction	1,836	1,665	No Change
Not Affected by Bill – Misdemeanors	191	98	
Not Affected by Bill – Infraction	715	641	No Change
Not Affected by Bill – Other Offenses*	39	56	No Change
Not Affected by Bill – Other Offenses*	22	16	Minimal Change
New Misdemeanor	93	99	For being on private land without consent of owner to hunt, fish etc.
Grand Total	3,323	2,883	
*Other offenses include felonies, juvenile cases and ordinance violations.			

*New Civil Penalties Associated with Felonies* – This bill would permit the Department of Natural Resources to assess a civil penalty of not more than \$10,000 for violating the sections of the Natural Resources Law regarding oil or gas permits. Any new revenue from a civil penalty for violating these laws would be deposited into the Oil and Gas Environmental Fund (IC 14-37-10-3).

**Explanation of Local Expenditures:** Depending on the severity of the crime, a person could be incarcerated in a county jail from up to 60 days for a Class C misdemeanor, up to 180 days for a Class B misdemeanor, and up to 365 days for a Class A misdemeanor.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Natural Resources; Department of Correction.

**Local Agencies Affected:** Trial courts, City and town courts.

**Information Sources:** Indiana Code; Indiana Supreme Court Judicial Technology and Automation Project.

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